

STATE OF NEVADA

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DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE DIRECTOR

Small Business Impact Statement

LCB File No. R036-23

EFFECTIVE DATE OF REGULATION:
Upon filing with the Nevada Secretary of State

1. **Background:** Existing law enacts the Nevada New Markets Jobs Act (NRS Chapter 231A), the purpose of which is to provide community development and economic stimulation, particularly to distressed areas of the state. NRS 231A.150 states the Director of the Nevada Department of Business and Industry may adopt regulations to carry out the provisions of the Nevada New Markets Jobs Act; those regulations currently comprise Chapter 231A of the Nevada Administrative Code (NAC).

In 2023, the 82nd Nevada Legislature passed Senate Bill 240, which made various changes to the Nevada New Markets Jobs Act. In response, the Director's Office of the Department of Business and Industry drafted language to amend NAC 231A and submitted it for review by the Legislative Counsel Bureau. The resulting LCB File No. R036-23:

- Incorporates requirements provided by Nevada Senate Bill 240 (2023);
 - Increases the number of calendar days in which the Director can approve or deny a request for investment by a qualified or impact qualified low-income community business; and
 - Incorporates language from a previous temporary NMJA regulation (LCB File No. T004-20A) to facilitate the creation of qualified low-income community investments by allowing a capital, equity investment or loan to be made directly or indirectly to a qualified or impact qualified low-income community business.
2. **Description of Solicitation:** Pursuant to NRS 233B.0608 and before conducting a workshop for the subject amendment, the Department made a concerted effort to determine whether the proposed regulation is likely to (1) impose a direct and significant economic burden upon a small business; or (2) directly restrict the formation, operation, or expansion of a small business. In doing so, the Department used the definition of "small business" as provided in NRS 233B.0382: "[A] business conducted for profit which employs fewer than 150 full-time or part-time employees."

This effort included review and analysis of the authorizing statutory language in NRS 231A; review and analysis of the requirements provided by Nevada Senate Bill 240 (2023); assessment of the administrative performance of the Nevada NMJA Program since 2013; assessment of the workforce and economic development performance of NMJA business investments to date; and study of economic modeling results contained in biennial reports of the Nevada NMJA Program to the Legislative Counsel Bureau.

As a result, the Department preliminarily determined that the proposed regulation will not (1) impose a direct and significant economic burden upon a small business; (2) result in any direct or indirect adverse effects on small businesses; or (3) directly restrict the formation, operation, or expansion of a small business. The Department's determination was based on the following reasons:

- The NMJA Program (NRS 231A) helps meet the need for access to capital for Nevada small businesses in distressed areas of the state. The proposed regulation implements changes to support the program's performance in this area.
- The proposed regulation will not apply to a Nevada small business unless that business decides to pursue or accept funding from an allocatee of the NMJA Program as defined in NRS 231A and certified by the Director. The regulation is otherwise inapplicable to a Nevada small business.
- Performance of the Nevada NMJA Program from 2013 to date reflects no adverse impacts to small businesses inside or outside the program, and only neutral to beneficial impacts for small businesses inside the program, as documented in the NMJA Program's biennial reports to the Legislative Counsel Bureau.

As part of its workshop process, the Department posted the proposed regulation on its website and distributed it to the email list maintained by the Department's Financial Institutions Division for NRS 675 and CDFI licensees and to the existing contact list for the Nevada New Markets Jobs Act program maintained by the Director's Office (a total of 289 email addresses, 23 of which proved undeliverable, for a final count of 266). In doing so, the Department specifically requested comments pertaining to any impacts on small businesses from the proposed regulations.

Following the solicitation and by the end of the period of notice for the workshop, no written comments were received. At the public workshop on December 15, 2023, the Department received three comments, two of which expressed support for the benefits of the NMJA Program and the proposed impact qualified regulatory provisions in helping to support investment in underserved communities of Nevada and to provide accountability for outcomes consistent with the Legislature's desired economic development objectives. The third comment simply requested information on small businesses served to date. No additional comments concerning impacts were received.

3. Does the proposed regulation impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? (NRS 233B.0608(1)) The Department preliminarily determined that the proposed regulation will not (1) impose a direct and significant economic burden upon a small business; or (2) directly restrict the formation, operation, or expansion of a small business.
4. How was that conclusion reached? Through the efforts described under item (2) above and for the reasons described therein.

The Department has identified additional costs to the Director's Office for implementation of the amendment and administration of the "impact qualified" provisions. These costs were included in a fiscal note to Senate Bill 240 (2023), funded in the legislation as approved, and are estimated at \$103,135 for the fiscal year 2023-2024 and \$99,665 for the fiscal year 2024-2025.

The amendment does not provide a new fee or increase an existing fee.

I, Kristopher Sanchez, Director, Nevada Department of Business and Industry, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small business, and that the information contained in the statement above is accurate. (NRS 233B.0608(3))

Dated: January 17, 2024

Signature: /s/ Kristopher Sanchez
Dr. Kristopher Sanchez, Director
Department of Business and Industry

A copy of all materials relating to the regulation may be obtained by contacting Chris Weiss in the Director's Office via email (cweiss@business.nv.gov), phone (702-486-5320), or by writing to the Las Vegas office of the Nevada Department of Business and Industry, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada 89102.